Index to Vol. 75 of The Florida Bar *Journal* (2001)

Key: January, Ja; February, F; March, Mr; April, Ap; May, My; June, Je; July/August, Jy/Ag; October, O; November, N; December, D
A five-year index is published on the Bar's website: **www.FLABAR.org.**

Author Index

A

Allen, Elizabeth
The 30-Day Removal Time Limit—When Does the Clock Start Ticking? ..... F 20

B

Behrenfeld, Craig E.
Entity Selection Revisited: Will *Gitlitz* Provide Continuing Vitality for S Corporations? ..... Je 73
Bennett, Jesse J., Jr.
Strategic Management of the Family Law Practice ..... My 44
Beyer, David A.
Making the World Safe for Franchising: *Neiman v. Dryclean U.S.A.* ..... F 32
Bittick, E. Kelly
Challenging the Reliability of Expert Testimony ..... Jy/Ag 48
Blandon, Elizabeth R.
Reasonable Accommodation or Nuisance? Service Animals for the Disabled ..... Mr 12
Blanton, Donna E.
State Agency Rulemaking Procedures and Rule Challenges ..... Ja 34
Bolton, Joseph D.
What Do I Do with my Judgment Now? A Primer on the New Centralized Judgment Lien Law ..... N 73
Braver, Samuel W.
No Trespassing: Donors Lack Legal Standing to Challenge Corporate Acts of Florida Not-for-profit Corporations ..... D 50
Brown, Henry M.
Contingent Fees for Expert Witnesses in Eminent Domain—Competency or Credibility? ..... O 34
Brunner, S. Dresden
PAVE: A Self-Help Technique for Estate Tax Valuation Methods .. O 44
Burris, Johnny C.
The Administrative Process and Constitutional Principles: Separation of Powers ..... Ja 28

C

Carter, Sherrie Bourg
Anatomy of a Child Custody Evaluation ..... Je 89
Cavendish, Michael
Understanding the First-to-File Rule and its Anticipatory Suit Exception ..... Jy/Ag 24
Chang, Daniel T.
Managing Managed Care: An Analysis of Managed Care Within Workers' Compensation Claims ... F 57
Conigliaro, Matthew J.
Challenging the Reliability of Expert Testimony ..... Jy/Ag 48
Craig, Ted C.
When Is a Manager a Managing Agent? ..... Ja 62

D

Davenport, Patricia E.
The "No Damage for Delay" Clause: A Public Policy Issue ..... O 8
Davis, David A.
Talking Heads—Virtual Reality and the Presence of Defendants in Court ..... F 26
Del Duca, George F.
Rethinking the Valuation of Family Limited Partnerships Holding Passive Assets ..... O 58
Douglas, John H.
Physician "Unionization"—A Primer and Prescription ..... Jy/Ag 37
Downie, Robert C., II
Back to the Future—An Agency Perspective on Rulemaking in the 21st Century ..... Ja 42

E

Effland, Matthew S.
Digital Age Defamation: Free Speech vs. Freedom from Responsibility on the Internet ..... N 63
Elligett, Raymond T. (Tom), Jr.
Appellate Stays and Bonds . My 33
Tell the Truth ..... D 38
Ellis, Richard M.
Standing in Florida Administrative Proceedings ..... Ja 49

F

Farmer, Guy O., II
Physician "Unionization"—A Primer and Prescription ..... Jy/Ag 37
Federbush, David J.
Obtaining Relief for Deceptive Practices under FDUTPA ..... N 22
Fisher, Bruce D.
The Anticybersquatting Consumer Protection Act ..... My 12
Fowler-Hermes, Jennifer
Appearance-based Discrimination Claims Under EEO Laws . Ap 32

G

Gans, Richard R.
Waiting for Estate Tax Repeal: What Do You Tell Your Clients in the Meantime? ..... N 67
Gerecke, Edward W.
Challenging the Reliability of Expert Testimony ..... Jy/Ag 48
Gifford, Glen P.
But I Don't Want to Withdraw My Plea! The Expansive View of Rule 3.170(l) ..... O 54
Glaid, Douglas J.
The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA): A New One-year Limitation for Filing a Federal Habeas Corpus Petition ..Jy/Ag 55
Gonzalez, Ervin A.
Medical Monitoring Claims are Viable in Florida ..... Ja 66
Grandoff, J. Bert
The "No Damage for Delay" Clause: A Public Policy Issue ..... O 8

H

Harkness, John F., Jr.
Expanding Benefits to Meet Members' Needs ..... Ja 12
Creation of Nonprofit Companies Benefits Members' Lives and Careers ..... F 8
Service in the Florida Legislature: A Demanding Part-time Job .. Mr 10
Your Board of Governors ..... Ap 8
In Memoriam: E. Dixie Beggs My 10
In Tragic Aftermath, Your Bar Responds ..... N 8
Hearing, Gregory A.
11th Circuit Clarifies Burden in Failure-to-Promote Cases ..... O 41
Heath, Robert N., Jr.
Proposals for Settlement in PIP Cases: Should *U.S. Security Ins. Co. v. Cahuasqi* Be Overturned? Ap 39
Hecker, Susan Barrett
Evaluating and Making a Choice of "No Entity" for Real Property Held for Investment or Lease . Jy/Ag 43
Hefren, Judith
The 1999 Revised Medicaid Third Party Liability and Estate Recov-

ery Laws: How to Satisfy the Liens and Preserve the Client's Public Assistance ..... Ap 42
Herman, Jason P.
A Look at Probation and Community Control Revocation Proceedings in Light of *Boyd* and F.S. 901.02(1) ..... Ja 71
Ho, Victoria M.
Special Equity and Unequal Distribution of Assets ..... N 79

J

Jablow, Benjamin A.
Sunset and the Economic Growth and Tax Relief Reconciliation Act of 2001 ..... D 47
Johnson, Christopher N.
When Is a Manager a Managing Agent? ..... Ja 62
Jones, Darryll K.
Regulating Donor Advised Funds ..... My 38
Jorgensen, Mike E.
The 11th Circuit Standard for Determining the Priority Status of Tax Claims Involving Successive Bankruptcy Filings ..... F 35

K

Kemper, Margaret-Ray
A Comparison of the APA and Circuit Court Procedures ..... Ja 54
King, Kimberly L.
An Antitrust Primer for Trade Association Counsel ..... My 26
Kiser, S. Curtis
Why Florida Needs the Administrative Procedure Act ..... Ja 18
Kraftchick, Lee A.
Dodging the Extra Arrow: Recent Developments in the Law of Retaliation ..... O 26

L

Latimer, Walter G.
Liability of the Commercial Driver: Negligent Hiring Meets the Dangerous Instrumentality Doctrine ..... F 42
Lederman, Alan S.
Eleventh Circuit Declines to Rewrite 20th Century World History ..... D 30
Lederman, Judge Cindy S.
Co-occurring Child Maltreatment and Domestic Violence: The Judicial Imperative to Ensure Reasonable Efforts ..... N 40
Lesser, Steven B.
The Great Escape — How to Draft Exculpatory Clauses That Limit or Extinguish Liability ..... N 10
Liggio, Jeffrey M.
Recovery of Mental Distress Damages in Bad Faith Claims in Florida ..... N 44
Lile, Laird A.
PAVE: A Self-Help Technique for Estate Tax Valuation Methods .. O 44
Littky-Rubin, Julie H.
Proposals for Settlement: Minding your P's and Q's Under Rule 1.442 ..... F 12
Long, Maxine M.
What Do I Do with my Judgment Now? A Primer on the New Centralized Judgment Lien Law ..... N 73

M

Manos, Tom J.
Florida's Nursing Home Reform and its Anticipated Effect on Litigation ..... D 18
Mason, Steven G.
Deposition Potpourri or Helpful Hints to Avoid Deposition Fatigue ..... Je 77
McFarland, Joseph B.
The Case Management Conference: Tune-up Needed? ..... N 59
McIntosh, Andrew L.
Making the World Safe for Franchising: *Neiman v. Dryclean U.S.A.* F 32
Miner, Jeffrey R.
Making Principal Invasions under Florida Law when an Interested Party is Serving as Trustee Mr 28
Montz, Craig Lee
Calling the Witness a Liar During Closing Argument: The Florida Supreme Court's Final Approval ..... O 49
Morman, Daniel
How to Guarantee Enforcement of a Guaranty Agreement ..... Je 86

N

Nelles, Matthew S.
Fraudulent Construction Liens: Willful Exaggeration or Good Faith Dispute? ..... Mr 34

O

O'Riley, Christine A.
Co-occurring Child Maltreatment and Domestic Violence: The Judicial Imperative to Ensure Reasonable Efforts ..... N 40

P

Perez, Mario L.
Managing Managed Care: An Analysis of Managed Care Within Workers' Compensation Claims ..... F 57
Polin, Richard L.
Sexually Violent Predator Commitment Proceedings: A Proposal for Rules of Procedure ..... F 51
Poole, J. Ray
Limiting the Use of "Me Too" Evidence in Employment Discrimination Cases ..... Je 81
Pudlow, Jan
Terry Russell—President of The Florida Bar ..... Jy/Ag 10

R

Reich, Lance D.
Dot.com (Patent Pending): Patents Are Now Central to Business Strategy ..... Mr 42
Reimer, Monica K.
The Public Trust Doctrine: Historic Protection for Florida's Navigable Rivers and Lakes ..... Ap 10
Reiss, Jerry
Dividing Pension Property After *Boyett*, Part I ..... F 47
Dividing Pension Property After *Boyett*, Part II ..... Mr 38
Rigot, Judge Linda M.
Administrative Law: A Meaningful Alternative to Circuit Court Litigation ..... Ja 14
Riselli, Donna
Appellate Mediation at the First District Court of Appeal: How and Why It Works ..... Ja 58
Rizzardi, Keith W.
Alligators and Litigators: A Recent History of Everglades Regulation and Litigation ..... Mr 18
Robbins, Judge S. Sue
Land Mines and Other Surprises in Residential Landlord and Tenant Cases ..... D 42
Rockenbach, Bard D.
Spoliation of Evidence: A Double Edged Sword ..... N 34
Ronzetti, Thomas A. Tucker
Dodging the Extra Arrow: Recent Developments in the Law of Retaliation ..... O 26
Russell, P. Scott IV
Recovery of Mental Distress Damages in Bad Faith Claims in Florida ..... N 44
Russell, Terry
As I See It ..... Jy/Ag 6
"As I See It": The Face of Poverty O 4
"As I See It": A Challenged Profession ..... N 4
"As I See It": ..... D 4
Russomanno, Herman J.
Florida's Winning Team: U.S. Senators Graham and Mack Protecting Floridians' Right to Justice ... Ja 8
The Florida Bar Foundation: How Lawyers Help the Poor ..... F 4
Equal Justice Under Law: A Call to Action for Florida Lawyers .. Mr 6
Protecting the Independence of Florida Lawyers ..... Ap 6
An Independent Bar and Judiciary: As American as Baseball and Apple Pie ..... My 4
Thank You ..... Je 8

S

Sanders, Dale
Anatomy of a Child Custody Evaluation ..... Je 89
Scheb, Judge John M.
Appellate Stays and Bonds . My 33
Tell the Truth ..... D 38
Scheiner, Craig
Appellate Stays and Bonds .... N 52
Schneider, Stephanie L.
The 1999 Revised Medicaid Third Party Liability and Estate Recov-

ery Laws: How to Satisfy the Liens and Preserve the Client's Public Assistance ..... Ap 42
Schwiep, Paul J.
Fraudulent Inducement Claims Should Always Be Immune from Economic Loss Rule Attack Ap 22
Sellers, Cathy M.
Nonrule Policy and the Legislative Preference for Rulemaking Ja 38
Sellers, Lawrence E., Jr.
Nonrule Policy and the Legislative Preference for Rulemaking Ja 38
Sheaffer, William J.
Deposition Potpourri or Helpful Hints to Avoid Deposition Fatigue ..... Je 77
Sheehy, Frances D.
The 11th Circuit Standard for Determining the Priority Status of Tax Claims Involving Successive Bankruptcy Filings ..... F 35
Sherrill, Judge William C., Jr.
The Florida Division of Administrative Hearings ..... Ja 22
Silverglate, Spencer H.
The Restatement (Third) of Torts: Product Liability – The Tension Between Product Design and Product Warnings ..... D 10
Smallwood, Mary
A Comparison of the APA and Circuit Court Procedures ..... Ja 54
Stein, Michael B.
11th Circuit Clarifies Burden in Failure-to-Promote Cases ..... O 41
Stengle, Dan R.
Limiting Agency Discretion in Rulemaking Under the Federal and Florida Administrative Procedures Acts ..... Ja 45

T

Thompson, David A.
Dividing Pension Property After *Boyett*, Part I ..... F 47
Dividing Pension Property After *Boyett*, Part II ..... Mr 38
Tiernan, Peter B.
Making Principal Invasions under Florida Law when an Interested Party is Serving as Trustee Mr 28

V

Valori, Raymond W.
Medical Monitoring Claims are Viable in Florida ..... Ja 66

W

Waczewski, James P.
The Misinterpretation of the Dismissal for Failure to Prosecute Rule ..... O 16
Wagner, E. John, II
Evaluating and Making a Choice of "No Entity" for Real Property Held for Investment or Lease ..... Jy/Ag 43
Warner, Tom
Office of the Florida Solicitor General: The Greatest Job for a Lawyer in Florida ..... Jy/Ag 32
Webber, Dale S.
No Trespassing: Donors Lack Legal Standing to Challenge Corporate Acts of Florida Not-for-profit Corporations ..... D 50
Williams, William E.
Why Florida Needs the Administrative Procedure Act ..... Ja 18
Winer, Michael
Litigators—How to Protect Yourselves from Malpractice at Trial While Protecting Your Clients on Appeal ..... My 48

Y

Yanelli, Elizabeth M.
No Trespassing: Donors Lack Legal Standing to Challenge Corporate Acts of Florida Not-for-profit Corporations ..... D 50

Z

Zung, Rebecca Y.
Special Equity and Unequal Distribution of Assets ..... N 79

Index to Vol. 75 of The Florida Bar *Journal* (2001)

Key: January, Ja; February, F; March, Mr; April, Ap; May, My; June, Je;July/August, Jy/Ag; October, O; November, N; December, D
A five-year index is published on the Bar's website: **www.FLABAR.org.**

Subject Index

A

Administrative Law
Administrative Law: A Meaningful Alternative to Circuit Court Litigation, Judge Linda M. Rigot ..... Ja 14
The Administrative Process and Constitutional Principles: Separation of Powers, Johnny C. Burris ..... Ja 28
The Florida Division of Administrative Hearings, Judge William C. Sherrill, Jr. ..... Ja 22
Why Florida Needs the Administrative Procedure Act, William E. Williams and S. Curtis Kiser .. Ja 18
Administrative Procedure Act
A Comparison of the APA and Circuit Court Procedures, Mary Smallwood and Margaret-Ray Kemper ..... Ja 54
Administrative Law: A Meaningful Alternative to Circuit Court Litigation, Judge Linda M. Rigot .... Ja 14
Back to the Future—An Agency Perspective on Rulemaking in the 21st Century, Robert C. Downie, II ..... Ja 42
Limiting Agency Discretion in Rulemaking Under the Federal and Florida Administrative Procedures Acts, Dan R. Stengle ..... Ja 45
Nonrule Policy and the Legislative Preference for Rulemaking, Cathy M. Sellers and Lawrence E. Sellers, Jr. ..... Ja 38
Standing in Florida Administrative Proceedings, Richard M. Ellis ..... Ja 49
State Agency Rulemaking Procedures and Rule Challenges, Donna E. Blanton ..... Ja 34
The Florida Division of Administrative Hearings, Judge William C. Sherrill, Jr. ..... Ja 22
Why Florida Needs the Administrative Procedure Act, William E. Williams and S. Curtis Kiser .. Ja 18
Administrative Rule
Standing in Florida Administrative

Proceedings, Richard M. Ellis Ja 49
Agency Action
A Comparison of the APA and Circuit Court Procedures, Mary Smallwood and Margaret-Ray Kemper ..... Ja 54
Agency Rules
Back to the Future—An Agency Perspective on Rulemaking in the 21st Century, Robert C. Downie II ..... Ja 42
Limiting Agency Discretion in Rulemaking Under the Federal and Florida Administrative Procedures Acts, Dan R. Stengle ..... Ja 45
Nonrule Policy and the Legislative Preference for Rulemaking, Cathy M. Sellers and Lawrence E. Sellers, Jr. ..... Ja 38
State Agency Rulemaking Procedures and Rule Challenges, Donna E. Blanton ..... Ja 34
Why Florida Needs the Administrative Procedure Act, William E. Williams and S. Curtis Kiser .. Ja 18
Animal Rights
Crimes Against Nonhuman Animals and Florida's Courts: 1889-2001, Craig I. Scheiner ..... N 52
Annual Reports
Annual Reports: Committees of The Florida Bar ..... Je 38
Annual Reports: Sections and Divisions of The Florida Bar .. Je 12
Anticipatory Suits
Understanding the First-to-File Rule and its Anticipatory Suit Exception, Michael Cavendish ..... Jy/Ag 24
Antitrust
An Antitrust Primer for Trade Association Counsel, Kimberly L. King ..... My 26
Appellate Mediation
Appellate Mediation at the First District Court of Appeal: How and Why It Works, Donna Riselli ..... Ja 58
Appellate Practice
Appellate Stays and Bonds, Raymond T. (Tom) Elligett, Jr., and Judge John M. Scheb ..... My 33
Tell the Truth, Raymond T. (Tom) Elligett, Jr., and Judge John M. Scheb ..... D 38
Arbitration
Administrative Law: A Meaningful Alternative to Circuit Court Litigation, Judge Linda M. Rigot . Ja 14
Attorneys' Fees
Proposals for Settlement in PIP Cases: Should *U.S. Security Ins. Co. v. Cahuasqi* Be Overturned? Robert N. Heath, Jr. ..... Ap 39

B

Bad Faith
Recovery of Mental Distress Damages in Bad Faith Claims in Florida, Jeffrey M. Liggio and P. Scott Russell IV ..... N 44
Bankruptcy
The 11th Circuit Standard for Determining the Priority Status of Tax Claims Involving Successive Bankruptcy Filings, Mike E. Jorgensen and Frances D. Sheehy ..... F 35
Beggs, E. Dixie
In Memoriam: E. Dixie Beggs, Herman J. Russomanno . My 10
Bonds
Appellate Stays and Bonds, Raymond T. (Tom) Elligett, Jr., and Judge John M. Scheb ..... My 33
Business Law
Dot.com (Patent Pending): Patents Are Now Central to Business Strategy, Lance D. Reich . Mr 42
Making the World Safe for Franchising: *Neiman v. Dryclean U.S.A.*, David A. Beyer and Andrew L. McIntosh ..... F 32

C

Case Management Conference
The Case Management Conference: Tune-up Needed? Joseph Bothwell McFarland ..... N 59
Child Abuse
Co-occurring Child Maltreatment and Domestic Violence: The Judicial Imperative to Ensure Reasonable Efforts, Christine A. O'Riley and Judge Cindy S. Lederman ..... N 40
Child Custody
Anatomy of a Child Custody Evaluation, Sherrie Bourg Carter and Dale Sanders ..... Je 89
Claims
Medical Monitoring Claims are Viable in Florida, Ervin A. Gonzales and Raymond W. Valori ..... Ja 66
Class Action
Medical Monitoring Claims are Viable in Florida, Ervin A. Gonzales and Raymond W. Valori ..... Ja 66
Committees, Florida Bar
Annual Reports: Committees of The Florida Bar ..... Je 38
Construction Law
Fraudulent Construction Liens: Willful Exaggeration or Good Faith Dispute? Matthew S. Nelles ... Mr 34
The "No Damage for Delay" Clause: A Public Policy Issue, J. Bert Grandoff and Patricia E. Davenport ..... O 8
Consumer Protection
The Anticybersquatting Consumer Protection Act, Bruce D. Fisher ..... My 12
Contracts
Fraudulent Inducement Claims Should Always Be Immune from Economic Loss Rule Attack, Paul J. Schwiep ..... Ap 22
Corporations
Entity Selection Revisited: Will *Gitlitz* Provide Continuing Vitality for S Corporations? Craig E. Behrenfeld ..... Je 73
When Is a Manager a Managing Agent? Ted C. Craig and Christopher N. Johnson ..... Ja 62
Courts
A Comparison of the APA and Circuit Court Procedures, Mary Smallwood and Margaret-Ray Kemper ..... Ja 54
Appellate Mediation at the First District Court of Appeal: How and Why It Works, Donna Riselli ..... Ja 58
Coverture Fraction
Dividing Pension Property After *Boyett*, Part I, Jerry Reiss and David A. Thompson ..... F 47
Criminal Law
A Look at Probation and Community Control Revocation Proceedings in Light of *Boyd* and F.S. 901.02(1), Jason P. Herman ..... Ja 71
Deposition Potpourri or Helpful Hints to Avoid Deposition Fatigue, Steven G. Mason and William J. Sheaffer ..... Je 77
Sexually Violent Predator Commitment Proceedings: A Proposal for Rules of Procedure, Richard L. Polin ..... F 51
The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA): A New One-year Limitation for Filing a Federal Habeas Corpus Petition, Douglas J. Glaid ..... Jy/Ag 55
Cybersquatting
The Anticybersquatting Consumer Protection Act, Bruce D. Fisher ..... My 12

D

Damages
The "No Damage for Delay" Clause: A Public Policy Issue, J. Bert Grandoff and Patricia E. Davenport ..... O 8
Recovery of Mental Distress Damages in Bad Faith Claims in Florida, Jeffrey M. Liggio and P. Scott Russell IV ..... N 44
Defamation
Digital Age Defamation: Free Speech v. Freedom from Responsibility on the Internet, Matthew S. Effland ..... N 63
Depositions
Deposition Potpourri or Helpful Hints to Avoid Deposition Fatigue, Steven G. Mason and William J. Sheaffer ..... Je 77
Disabilities
Reasonable Accommodation or Nuisance? Service Animals for the Disabled, Elizabeth R. Blandon Mr 12
Discrimination
Appearance-based Discrimination Claims Under EEO Laws, Jennifer Fowler-Hermes ..... Ap 32
Limiting the Use of "Me Too" Evidence in Employment Discrimination Cases, J. Ray Poole ..... Je 81
Reasonable Accommodation or Nuisance? Service Animals for the Disabled, Elizabeth R. Blandon Mr 12
Dismissals
The Misinterpretation of the Dismissal for Failure to Prosecute Rule, James P. Waczewski ..... O 16
Divisions, Florida Bar
Annual Reports: Sections and Divisions of The Florida Bar .. Je 12
Domestic Violence
Co-occurring Child Maltreatment and Domestic Violence: The Ju-

dicial Imperative to Ensure Reasonable Efforts, Christine A. O'Riley and Judge Cindy S. Lederman ..... N 40
Donor Advised Funds
Regulating Donor Advised Funds, Darryll K. Jones ..... My 38

E

Economic Growth and Tax Relief Reconciliation Act
Sunset and the Economic Growth and Tax Relief Reconciliation Act of 2001, Benjamin A. Jablow ... D 47
Economic Loss Rule
Fraudulent Inducement Claims Should Always Be Immune from Economic Loss Rule Attack, Paul J. Schwiep ..... Ap 22
Elder Law
The 1999 Revised Medicaid Third Party Liability and Estate Recovery Laws: How to Satisfy the Liens and Preserve the Client's Public Assistance, Judith Hefren and Stephanie L. Schneider .... Ap 42
Eminent Domain
Contingent Fees for Expert Witnesses in Eminent Domain—Competency or Credibility? Henry M. Brown ..... O 34
Employee/Employer
Appearance-based Discrimination Claims Under EEO Laws, Jennifer Fowler-Hermes ..... Ap 32
Limiting the Use of "Me Too" Evidence in Employment Discrimination Cases, J. Ray Poole ..... Je 81
Environmental and Land Use Law
Alligators and Litigators: A Recent History of Everglades Regulation and Litigation, Keith W. Rizzardi ..... Mr 18
The Public Trust Doctrine: Historic Protection for Florida's Navigable Rivers and Lakes, Monica K. Reimer ..... Ap 10
Equal Access to Justice
Equal Justice Under Law: A Call to Action for Florida Lawyers, Herman J. Russomanno .... Mr 6
Equal Employment Opportunity Commission (EEOC)
Dodging the Extra Arrow: Recent Developments in the Law of Retaliation, Lee A. Kraftchick and Thomas A. Tucker Ronzetti O 26
Equitable Distribution
Special Equity and Unequal Distribution of Assets, Victoria M. Ho and Rebecca Y. Zung ..... N 79
Estate and Gift Tax
Waiting for Estate Tax Repeal: What Do You Tell Your Clients in the Meantime? Richard R. Gans ..... N 67
Everglades
Alligators and Litigators: A Recent History of Everglades Regulation and Litigation, Keith W. Rizzardi ..... Mr 18
Evidence
Spoliation of Evidence: A Double-Edged Sword, Bard D. Rockenbach ..... N 34
Executive Directions
Creation of Nonprofit Companies Benefits Members' Lives and Careers, John F. Harkness, Jr. .. F 8
Expanding Benefits to Meet Members' Needs, John F. Harkness, Jr. ..... Ja 12
In Memoriam: E. Dixie Beggs, Herman J. Russomanno . My 10
Service in the Florida Legislature: A Demanding Part-time Job, John F. Harkness, Jr. ..... Mr 10
Your Board of Governors, John F. Harkness, Jr. ..... Ap 8
Expert Testimony
Challenging the Reliability of Expert Testimony, E. Kelly Bittick, Matthew J. Conigliaro, and Edward W. Gerecke ..... Jy/Ag 48
Expert Witness
Contingent Fees for Expert Witnesses in Eminent Domain—Competency or Credibility? Henry M. Brown ..... O 34

F

Family Law
Anatomy of a Child Custody Evaluation, Sherrie Bourg Carter and Dale Sanders ..... Je 89
Dividing Pension Property After *Boyett*, Part I, Jerry Reiss and David A. Thompson ..... F 47
Dividing Pension Property After *Boyett*, Part II, Jerry Reiss and David A. Thompson ..... Mr 38
Special Equity and Unequal Distribution of Assets, Victoria M. Ho and Rebecca Y. Zung ..... N 79
Strategic Management of the Family Law Practice, Jesse J. Bennett, Jr. ..... My 44
Florida Deceptive and Unfair Trade Practices Act (FDUTPA)
Obtaining Relief for Deceptive Practices Under FDUTPA, David J. Federbush ..... N 22
Fees
Contingent Fees for Expert Witnesses in Eminent Domain—Competency or Credibility? Henry M. Brown ..... O 34
First-to-File Rule
Understanding the First-to-File Rule and its Anticipatory Suit Exception, Michael Cavendish ..... Jy/Ag 24
Florida Association for Women Lawyers
FAWL-50th Anniversary Celebration ..... Je 95
Florida Bar, The
Annual Reports: Committees of The Florida Bar ..... Je 38
Annual Reports: Sections and Divisions of The Florida Bar .. Je 12
As I See It, Terry Russell .. Jy/Ag 6
Protecting the Independence of Florida Lawyers, Herman J. Russomanno ..... Ap 6
Thank You, Herman J. Russomanno ..... Je 8
Your Board of Governors, John F. Harkness, Jr. ..... Ap 8
Florida Bar Foundation, The
The Florida Bar Foundation: How Lawyers Help the Poor, Herman J. Russomanno ..... F 4
FLMIC
Creation of Nonprofit Companies Benefits Members' Lives and Careers, John F. Harkness, Jr. ..... F 8
Franchise
Making the World Safe for Franchising: *Neiman v. Dryclean U.S.A.*, David A. Beyer and Andrew L. McIntosh ..... F 32
Fraud
Fraudulent Construction Liens: Willful Exaggeration or Good Faith Dispute? Matthew S. Nelles ... Mr 34
Fraudulent Inducement Claims Should Always Be Immune from Economic Loss Rule Attack, Paul J. Schwiep ..... Ap 22

G

General Practice, Solo, and Small Firm
How to Guarantee Enforcement of a Guaranty Agreement, Daniel Morman ..... Je 86
Guaranty Agreement
How to Guarantee Enforcement of a Guaranty Agreement, Daniel Morman ..... Je 86

H

Habeas Corpus
The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA): A New One-year Limitation for Filing a Federal Habeas Corpus Petition, Douglas J. Glaid ..... Jy/Ag 55

I

Intellectual Property
Dot.com (Patent Pending): Patents Are Now Central to Business Strategy, Lance D. Reich . Mr 42
Internet
Digital Age Defamation: Free Speech v. Freedom from Responsibility on the Internet, Matthew S. Effland ..... N 63
Talking Heads—Virtual Reality and the Presence of Defendants in Court, David A. Davis ..... F 26
Interest on Trust Accounts (IOTA)
The Florida Bar Foundation: How Lawyers Help the Poor, Herman J. Russomanno ..... F 4
Interested Party
Making Principal Invasions under Florida Law when an Interested Party is Serving as Trustee, Jeffrey R. Miner and Peter B. Tiernan ..... Mr 28
Internal Revenue Service
Entity Selection Revisited: Will *Gitlitz* Provide Continuing Vitality for S Corporations? Craig E. Behrenfeld ..... Je 73

J

Judges/Judiciary
An Independent Bar and Judiciary: As American as Baseball and Apple Pie, Herman J. Russomanno ..... My 4

The Administrative Process and Constitutional Principles: Separation of Powers, Johnny C. Burris ..Ja 28
The Florida Division of Administrative Hearings, Judge William C. Sherrill, Jr. ..... Ja 22
Judgments
Proposals for Settlement: Minding your P's and Q's Under Rule 1.442, Julie H. Littky-Rubin ..... F 12
Judicial Nominating Commissions
Florida's Winning Team: U.S. Senators Graham and Mack Protecting Floridians' Right to Justice, Herman J. Russomanno ..... Ja 8

L

Labor and Employment Law
Appearance-based Discrimination Claims Under EEO Laws, Jennifer Fowler-Hermes ..... Ap 32
Digital Age Defamation: Free Speech v. Freedom from Responsibility on the Internet, Matthew S. Effland ..... N 63
Limiting the Use of "Me Too" Evidence in Employment Discrimination Cases, J. Ray Poole ..... Je 81
Physician "Unionization"—A Primer and Prescription, Guy O. Farmer II and John H. Douglas .... Jy/Ag 37
Landlord/Tenant Law
Land Mines and Other Surprises in Residential Landlord and Tenant Cases, Judge S. Sue Robbins D 42
Law Office Economics and Management
Strategic Management of the Family Law Practice, Jesse J. Bennett, Jr. ..... My 44
Lawyers/Legal Profession
Protecting the Independence of Florida Lawyers, Herman J. Russomanno ..... Ap 6
Legislation
An Independent Bar and Judiciary: As American as Baseball and Apple Pie, Herman J. Russomanno ..... My 4
Legislature
Service in the Florida Legislature: A Demanding Part-time Job, John F. Harkness, Jr. ..... Mr 10
The Administrative Process and Constitutional Principles: Separation of Powers, Johnny C. Burris ..... Ja 28
Liability
Liability of the Commercial Driver: Negligent Hiring Meets the Dangerous Instrumentality Doctrine, Walter G. Latimer ..... F 42
When Is a Manager a Managing Agent? Ted C. Craig and Christopher N. Johnson ..... Ja 62

M

Malpractice
Litigators—How to Protect Yourselves from Malpractice at Trial While Protecting Your Clients on Appeal, Michael Winer .... My 48
Managed Care
Managing Managed Care: An Analysis of Managed Care Within Workers' Compensation Claims, Mario L. Perez and Daniel T. Chang ..... F 57
Managing Agent
When Is a Manager a Managing Agent? Ted C. Craig and Christopher N. Johnson ..... Ja 62
Mediation
Appellate Mediation at the First District Court of Appeal: How and Why It Works, Donna Riselli ..... Ja 58
Medical
Medical Monitoring Claims are Viable in Florida, Ervin A. Gonzales and Raymond W. Valori ..... Ja 66
Medicaid
The 1999 Revised Medicaid Third Party Liability and Estate Recovery Laws: How to Satisfy the Liens and Preserve the Client's Public Assistance, Judith Hefren and Stephanie L. Schneider .... Ap 42
Member Benefits
Expanding Benefits to Meet Members' Needs, John F. Harkness, Jr. ..... Ja 12

N

NAFTA
11th Circuit Declines to Rewrite 20th Century World History, Alan S. Lederman ..... D 30
Negligent Hiring
Liability of the Commercial Driver: Negligent Hiring Meets the Dangerous Instrumentality Doctrine, Walter G. Latimer ..... F 42
Nonprofit Organizations
No Trespassing: Donors Lack Legal Standing to Challenge Corporate Acts of Florida Not-for-Profit Corporations, Samuel W. Braver, Dale S. Webber, and Elizabeth M. Yanelli ..... D 50
Nursing Homes
Florida's Nursing Home Reform and its Anticipated Effect on Litigation, Tom J. Manos ..... D 18

P

Patents
Dot.com (Patent Pending): Patents Are Now Central to Business Strategy, Lance D. Reich . Mr 42
Pension Plans
Dividing Pension Property After *Boyett*, Part I, Jerry Reiss and David A. Thompson ..... F 47
Personal Injury
Proposals for Settlement in PIP Cases: Should *U.S. Security Ins. Co. v. Cahuasqi* Be Overturned? Robert N. Heath, Jr. ..... Ap 39
Physicians
Physician "Unionization"—A Primer and Prescription, Guy O. Farmer II and John H. Douglas .... Jy/Ag 37
President's Page
An Independent Bar and Judiciary: As American as Baseball and Apple Pie, Herman J. Russomanno ..... My 4
As I See It, Terry Russell .. Jy/Ag 6
"As I See It": A Challenged Profession, Terry Russell ..... N 4
"As I See It": The Face of Poverty, Terry Russell ..... O 4
Equal Justice Under Law: A Call to Action for Florida Lawyers, Herman J. Russomanno .... Mr 6
Florida's Winning Team: U.S. Senators Graham and Mack Protecting Floridians' Right to Justice, Herman J. Russomanno ..... Ja 8
Protecting the Independence of Florida Lawyers, Herman J. Russomanno ..... Ap 6
Thank You, Herman J. Russomanno ..... Je 8
The Florida Bar Foundation: How Lawyers Help the Poor, Herman J. Russomanno ..... F 4
President, Florida Bar
Terry Russell—President of The Florida Bar, Jan Pudlow Jy/Ag 10
Pro Bono
Equal Justice Under Law: A Call to Action for Florida Lawyers, Herman J. Russomanno .... Mr 6
Probation
A Look at Probation and Community Control Revocation Proceedings in Light of *Boyd* and F.S. 901.02(1), Jason P. Herman ..... Ja 71
Products Liability
The Restatement (Third) of Torts: Products Liability — The Tension Between Product Design and Product Warnings, Spencer H. Silverglate ..... D 10
Professionalism
Tell the Truth, Raymond T. (Tom) Elligett, Jr., and Judge John M. Scheb ..... D 38
Property Rights
Dividing Pension Property After *Boyett*, Part II, Jerry Reiss and David A. Thompson ..... Mr 38
Public Trust Doctrine
The Public Trust Doctrine: Historic Protection for Florida's Navigable Rivers and Lakes, Monica K. Reimer ..... Ap 10

R

Real Property, Probate and Trust Law
Evaluating and Making a Choice of "No Entity" for Real Property Held for Investment or Lease, E. John Wagner II and Susan Barrett Hecker ..... Jy/Ag 43
Land Mines and Other Surprises in Residential Landlord and Tenant Cases, Judge S. Sue Robbins ..... D 42
Waiting for Estate Tax Repeal: What Do You Tell Your Clients in the Meantime? Richard R. Gans ..... N 67
Reasonable Accomodation
Reasonable Accommodation or Nuisance? Service Animals for the Disabled, Elizabeth R. Blandon ..... Mr 12
Removal
The 30-Day Removal Time Limit—When Does the Clock Start Ticking? Elizabeth Allen ..... F 20

Reports
Annual Reports: Committees of The Florida Bar ..... Je 38
Annual Reports: Sections and Divisions of The Florida Bar .. Je 12
Retaliation
Dodging the Extra Arrow: Recent Developments in the Law of Retaliation, Lee A. Kraftchick and Thomas A. Tucker Ronzetti .O 26
Retirement
Dividing Pension Property After *Boyett*, Part II, Jerry Reiss and David A. Thompson ..... Mr 38
Rulemaking
Back to the Future—An Agency Perspective on Rulemaking in the 21st Century, Robert C. Downie, II ..... Ja 42
Limiting Agency Discretion in Rulemaking Under the Federal and Florida Administrative Procedures Acts, Dan R. Stengle ..... Ja 45
Nonrule Policy and the Legislative Preference for Rulemaking, Cathy M. Sellers and Lawrence E. Sellers, Jr. ..... Ja 38
State Agency Rulemaking Procedures and Rule Challenges, Donna E. Blanton ..... Ja 34
Rules of Civil Procedure
Proposals for Settlement: Minding your P's and Q's Under Rule 1.442, Julie H. Littky-Rubin ..... F 12
Sexually Violent Predator Commitment Proceedings: A Proposal for Rules of Procedure, Richard L. Polin ..... F 51
The Misinterpretation of the Dismissal for Failure to Prosecute Rule, James P. Waczewski ..O 16
Rules of Judicial Administration
The Misinterpretation of the Dismissal for Failure to Prosecute Rule, James P. Waczewski ..O 16

S

Russell, Terry
Terry Russell—President of The Florida Bar, Jan Pudlow Jy/Ag 10
Sections/Divisions, Florida Bar
Annual Reports: Sections and Divisions of The Florida Bar .. Je 12
Settlements
Proposals for Settlement: Minding your P's and Q's Under Rule 1.442, Julie H. Littky-Rubin ..... F 12
Sexually Violent Predator
Sexually Violent Predator Commitment Proceedings: A Proposal for Rules of Procedure, Richard L. Polin ..... F 51
Sixth Amendment
Talking Heads—Virtual Reality and the Presence of Defendants in Court, David A. Davis ..... F 26
Solicitor General, Florida
Office of the Florida Solicitor General: The Greatest Job for a Lawyer in Florida, Tom Warner ..... Jy/Ag 32
Sovereignty Lands
The Public Trust Doctrine: Historic Protection for Florida's Navigable Rivers and Lakes, Monica K. Reimer ..... Ap 10

Statement of Ownership, Management and Circulation (Required by 39 U.S.C. 3685)

1. Title of Publication: The Florida Bar *Journal*.
2. Publication Number: 00153915.
3. Date of Filing: September 25, 2001.
4. Frequency of Issue: Monthly except July/August combined issue.
5. Number of issues published annually: 11.
6. Annual subscription price: $40.
7. Complete mailing address of known office of publication: 650 Apalachee Parkway, Tallahassee, FL 32399-2300. Contact person: Marie D. Bryant. Telephone: 850/561-5688.
8. Complete mailing address of the headquarters or general business offices of the publisher: 650 Apalachee Parkway, Tallahassee, FL 32399-2300.
9. Publisher: John F. Harkness, Jr., 650 Apalachee Parkway, Tallahassee, FL 32399-2300; Editor: Cheryle M. Dodd, 650 Apalachee Parkway, Tallahassee, FL 32399-2300.
10.Owner: The Florida Bar, 650 Apalachee Parkway, Tallahassee, FL 32399-2300.
11. Known bondholders, mortgagees, and other security holders owning or holding one percent or more of total amount of bonds, mortgages or other securities: none.
12. The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes have not changed during preceding 12 months.
13. Publication title: The Florida Bar *Journal*.
14. Issue date for circulation data: May 2001.
15. Extent and nature of circulation:

A. Total number of copies (net press run): average number copies each issue during preceding 12 months—62,825; actual number copies of single issue published nearest to filing date—62,825.

B. Paid and/or requested circulation: 0. Sales through dealers and carriers, street vendors and counter sales: average number copies each issue during preceding 12 months—0; actual number copies single issue published nearest to filing date—0. Paid or requested mail subscriptions: average number copies each issue during preceding 12 months—60,367; actual number copies single issue published nearest to filing date—60,764.

C. Total paid and/or requested circulation (sum of 15B1 and 15B2): average number copies each issue during preceding 12 months—60,367; actual number copies single issue published nearest to filing date—60,764.

D. Free distribution by mail: average number copies each issue during preceding 12 months—649; actual number copies single issue nearest to filing date—583.

E. Free distribution outside the mail: average number copies each issue during preceding 12 months—0; actual number copies single issue published nearest to filing date—0.

F. Total free distribution (sum of 15D and15E): average number copies each issue during preceding 12 months—649; actual member copies of single issue published nearest to filing date—583.

G. Total distribution (sum of 15C and 15F): average number copies each issue during preceding 12 months—60,830; actual number copies of single issue published nearest to filing date—61,921.

H. Copies not distributed: 1. Office use, left over, spoiled: average number copies each issue during preceding 12 months— 463; actual number copies single issue published nearest to filing date—574. Returns from news agents—0.

I. Total (sum of 15G, 15H(1) and 15H(2)): average number copies each issue during preceding 12 months—61,293; actual number copies single issue published nearest to filing date—62,495.

Percent paid and/or requested circulation (15C/15G x 100): average number of copies each issue during preceding 12 months—99.1; actual number of copies of single issue published nearest to filing date—99.5.

16. Publication of statement of ownership will be printed in the 11th (December) issue of this publication.
17. I certify that all information furnished on this form is true and complete.

CHERYLE M. DODD, *Editor*

Spoliation
Spoliation of Evidence: A Double-Edged Sword, Bard D. Rockenbach ..... N 34
Spotlight
Hispanic Bar Association of Central Florida Produces Domestic Violence Video ..... D 54
Standing
Standing in Florida Administrative Proceedings, Richard M. Ellis .... Ja 49
State of Florida
Office of the Florida Solicitor General: The Greatest Job for a Lawyer in Florida, Tom Warner ..... Jy/Ag 32
Stays
Appellate Stays and Bonds, Raymond T. (Tom) Elligett, Jr., and Judge John M. Scheb ..... My 33
Supreme Court, Florida
Office of the Florida Solicitor General: The Greatest Job for a Lawyer in Florida, Tom Warner ..... Jy/Ag 32

T

Tax Law
Entity Selection Revisited: Will *Gitlitz* Provide Continuing Vitality for S Corporations? Craig E. Behrenfeld ..... Je 73
Evaluating and Making a Choice of "No Entity" for Real Property Held for Investment or Lease, E. John Wagner II and Susan Barrett Hecker ..... Jy/Ag 43
Making Principal Invasions under Florida Law when an Interested Party is Serving as Trustee, Jeffrey R. Miner and Peter B. Tiernan ..... Mr 28
Regulating Donor Advised Funds, Darryll K. Jones ..... My 38
Sunset and the Economic Growth and Tax Relief Reconciliation Act of 2001, Benjamin A. Jablow ... D 47
The 11th Circuit Standard for Determining the Priority Status of Tax Claims Involving Successive Bankruptcy Filings, Mike E. Jorgensen and Frances D. Sheehy ..... F 35
Technology
Talking Heads—Virtual Reality and the Presence of Defendants in Court, David A. Davis ..... F 26
Third Party
The 1999 Revised Medicaid Third Party Liability and Estate Recovery Laws: How to Satisfy the Liens and Preserve the Client's Public Assistance, Judith Hefren and Stephanie L. Schneider .... Ap 42
Torts
The Restatement (Third) of Torts: Products Liability — The Tension Between Product Design and Product Warnings, Spencer H. Silverglate ..... D 10
Trade
Making the World Safe for Franchising: *Neiman v. Dryclean U.S.A.*, David A. Beyer and Andrew L. McIntosh ..... F 32
Obtaining Relief for Deceptive Practices Under FDUTPA, David J. Federbush ..... N 22
Trade Association
An Antitrust Primer for Trade Association Counsel, Kimberly L. King ..... My 26
Treaty Clause
11th Circuit Declines to Rewrite 20th Century World History, Alan S. Lederman ..... D 30
Trial Brief
Litigators—How to Protect Yourselves from Malpractice at Trial While Protecting Your Clients on Appeal, Michael Winer .... My 48
Trials
Challenging the Reliability of Expert Testimony, E. Kelly Bittick, Matthew J. Conigliaro, and Edward W. Gerecke ..... Jy/Ag 48
Liability of the Commercial Driver: Negligent Hiring Meets the Dangerous Instrumentality Doctrine, Walter G. Latimer ..... F 42
Trusts
Making Principal Invasions under Florida Law when an Interested Party is Serving as Trustee, Jeffrey R. Miner and Peter B. Tiernan ..... Mr 28

U

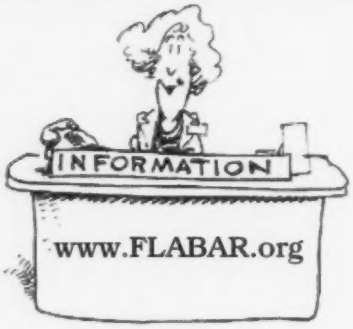
Unions
Physician "Unionization"—A Primer and Prescription, Guy O. Farmer II and John H. Douglas .... Jy/Ag 37

V

Voluntary Bar Associations
Hispanic Bar Association of Central Florida Produces Domestic Violence Video ..... D 54

W

Water Management
Alligators and Litigators: A Recent History of Everglades Regulation and Litigation, Keith W. Rizzardi ..... Mr 18
Workers' Compensation
Managing Managed Care: An Analysis of Managed Care Within Workers' Compensation Claims, Mario L. Perez and Daniel T. Chang ..... F 57



Looking for an old *Journal* article?

The Bar's website has just what you're looking for.

A new *Journal* database on FLABAR Online provides users with a searchable database of articles and a quick and convenient way to request copies of older articles.

Instead of calling or faxing a request to the Bar, you can now fill in an article request form on our website and click "submit."